

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO. 1:07cr96
)	
KEVIN J. BLEVINS,)	
)	
Defendant.)	

OPINION AND ORDER

This matter is before the court on a "Motion for Leave to File Habeas Corpus Petition Under 28 U.S.C. 2255", filed by the defendant, Kevin J. Blevins, proceeding pro se. The government has declined to file a response.

In this motion, Blevins notes that his habeas petition was originally filed on October, 30, 2009, and was dismissed on December 3, 2009 on the grounds that an appeal had been filed divesting this court of jurisdiction. Blevins states that his criminal case was appealed and his habeas petition is civil in nature and thus dismissal was not proper. Clearly, Blevins misunderstands the nature of a habeas petition. The habeas petition necessarily relates to the criminal proceeding, and thus an appeal of the criminal proceeding divests the court of jurisdiction of the habeas petition. See United States v. Barger, 178 F.3d 844, 848 (7th Cir. 1999).

Accordingly, Blevins' "Motion for Leave to File Habeas Corpus Petition" [DE 120] is hereby DENIED.

Entered: June 15, 2010.

s/ William C. Lee
William C. Lee, Judge
United States District Court